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United States of America  
6  
7

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 **UNITED STATES OF AMERICA,**

Case No. **C99-00180 M**

12 Plaintiff,

13 v.

14 **RODOLFO DIAZ**  
**aka RODOLFO DIAZ, JR.,**

15 Defendant,

**WRIT OF CONTINUING  
GARNISHMENT**

16  
17 and

18 **ALBERTSONS COMPANIES, INC.,**

19 Garnishee.  
20 \_\_\_\_\_/

21 TO: Payroll Department  
ALBERTSONS COMPANIES, INC.  
22 250 East Parkcenter Boulevard  
Boise, ID 83706  
23

24 YOU ARE HEREBY COMMANDED TO GARNISH FOR THE BENEFIT OF  
25 THE UNITED STATES OF AMERICA THE WAGES, SALARY, OR COMMISSION IN  
26 YOUR CUSTODY, CONTROL, OR POSSESSION IN WHICH THE DEFENDANT-  
27 JUDGMENT DEBTOR HAS AN OWNERSHIP INTEREST.

28 The name, SSN XXX-XX-4101, and last known address of the person who is

1 the defendant-judgment debtor (hereinafter "debtor") in this action and whose property  
2 is subject to this Writ are as follows:

3        RODOLFO DIAZ aka RODOLFO DIAZ, JR.  
4        535 3rd Street  
5        Paso Robles, CA 93446

6        This Writ has been issued at the request of the United States of America to  
7 enforce the collection of a civil judgment entered in favor of the United States against  
8 the debtor for a defaulted student loan in the amount of \$4,616.39. There is a balance  
9 of \$11,359.46 due on the judgment, which amount includes costs and interest  
10 computed through October 15, 2019; interest continues to accrue until paid in full.

11        The following are the steps that you must take to comply with this Writ. If you  
12 have any questions, you should consult with your attorney.

13        1. Pursuant to 28 U.S.C. § 3205(c)(2)(F), if you have in your custody, control,  
14 or possession any property of the debtor, including wages, salary, or commissions, in  
15 which the debtor has a substantial nonexempt interest, or if you obtain custody,  
16 control, or possession of such property while this Writ is in effect, you must  
17 immediately withhold such property from the debtor and retain it in your possession  
18 until you receive instructions from the Court which will tell you what to do with the  
19 property. The United States has requested that the sum of 25% of the debtor's  
20 disposable earnings, which under California law represents the nonexempt portion of  
21 the debtor's earnings, be withheld from the defendant's earnings.

22        2. Pursuant to 28 U.S.C. § 3205(c)(2)(E), you are required to answer this Writ  
23 within 10 days after service of this Writ upon you. You must answer the Writ even if  
24 you do not have in your custody, control, or possession any property of the debtor.  
25 Pursuant to 28 U.S.C. § 3205(c)(4), your answer must state, under oath, the following  
26 information:

27        a.        Whether or not you have in your custody, control, or possession, any  
28                property owned by the debtor in which the debtor has a substantial

- 1 nonexempt interest, including nonexempt, disposable earnings;
- 2 b. a description of such property and the value of such property;
- 3 c. a description of any previous garnishments to which such property is
- 4 subject and the extent to which any remaining property is not exempt;
- 5 and
- 6 d. the amount of the funds you anticipate owing to the debtor in the future
- 7 and whether the period for payment will be weekly or another specified
- 8 period.

9 For your convenience, a form which addresses the above-requested information is

10 attached and may be used to Answer the Writ.

11 3. After you complete the answer under oath, pursuant to 28 U.S.C. §

12 3205(c)(2)(E) & (c)(4), within ten (10) days after service of this Writ upon you, you

13 must mail or deliver the original Answer bearing the original signature of the person

14 preparing the answer to the Court at the following address:

15 Civil Clerk, United States District Court  
16 450 Golden Gate Avenue, 16th Floor  
San Francisco, CA 94102

17 At the same time that you mail or deliver the original answer to the Court, you must

18 also mail or deliver a copy of the original Answer to both the debtor and attorney for

19 the United States at the following respective addresses:

20 RODOLFO DIAZ aka RODOLFO DIAZ, JR.  
21 535 3rd Street  
Paso Robles, CA 93446

22 Michael Cosentino, Counsel for the United States  
23 P.O. Box 129  
Alameda, CA 94501

24 Please note that the attached form Answer contains a certificate of service which

25 needs to be completed by the person mailing the copies of the answer to the debtor

26 and the attorney for the United States, and which needs to be filed along with the

27 Answer.

28

1 IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD PROPERTY  
2 IN ACCORDANCE WITH THIS WRIT, THE UNITED STATES MAY PETITION THE  
3 COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO  
4 ANSWER THE WRIT AND TO WITHHOLD PROPERTY IN ACCORDANCE WITH  
5 THE WRIT BEFORE THE APPEARANCE DATE. IF YOU FAIL TO APPEAR OR DO  
6 APPEAR AND FAIL TO SHOW GOOD CAUSE WHY YOU FAILED TO COMPLY  
7 WITH THIS WRIT, THE COURT WILL ENTER A JUDGMENT AGAINST YOU FOR  
8 THE VALUE OF THE DEBTOR'S NONEXEMPT INTEREST IN SUCH PROPERTY  
9 (INCLUDING NONEXEMPT DISPOSABLE EARNINGS). THE COURT MAY ALSO  
10 AWARD A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AND  
11 AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN THE TIME SPECIFIED  
12 HEREIN AND IF THE UNITED STATES FILES A PETITION REQUIRING YOU TO  
13 APPEAR.

14 SUSAN Y. SOONG, Clerk  
15 United States District Court  
16 for the Northern District of California

17 Dated: 10/23/2019

18 By:   
19 Deputy Clerk Mark Romyn



DO NOT WITHHOLD THE EXEMPT PORTION OF THE EMPLOYEE'S EARNINGS

1. Earnings include any money (whether called wages, salary, commissions, bonuses, or anything else) paid for personal services, pension, or retirement. Vacation or sick pay is earnings subject to withholding as it is *received* by the employee.

2. Disposable earnings are different from gross pay or take-home pay. They are the earnings left after deducting the part which state or federal law requires an employer to withhold as mandatory deductions. Generally, these mandatory deductions are federal income tax, social security (FICA) tax, state income tax, state disability insurance, and payments to public employee retirement systems. Disposable earnings can change from pay period to pay period, whenever gross pay or required deductions change.

To determine earnings that<sup>1</sup> are eligible for withholding, and therefore must be withheld, see the chart below.

USE THE CHART BELOW TO DETERMINE NONEXEMPT DISPOSABLE EARNINGS AND THE APPLICABLE WITHHOLDING AMOUNT<sup>1</sup> :

Pay Period:	Weekly or oftener	Every 2 weeks	Twice a month	Once a month
<b>Disposable earnings:</b>	\$ 0 to \$217.50	\$ 0 to \$435.00	\$ 0 to \$471.25	\$ 0 to \$942.50
<b>Withhold:</b>	Nothing (entire earnings are exempt)			
<b>Disposable earnings:</b>	\$217.51 to \$290.00	\$435.01 to \$580.00	\$471.26 to \$628.33	\$942.51 to \$1,256.67
<b>Withhold:</b>	Amt. over \$217.50	Amt. over \$435.00	Amt. over \$471.25	Amt. over \$942.50
<b>Disposable earnings:</b>	\$290.01 or more	\$580.01 or more	\$628.34 or more	\$1,256.68 or more
<b>Withhold:</b>	25% of disposable earnings (balance is exempt)			

<sup>1</sup>Based on the Federal Minimum Wage Earnings of \$7.25 an hour, effective 07/24/2009

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	Case No. C99-00180 M
Plaintiff,	)	
	)	
v.	)	
	)	
RODOLFO DIAZ	)	
aka RODOLFO DIAZ, JR.,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
ALBERTSONS COMPANIES, INC.,	)	<b>ANSWER OF GARNISHEE</b>
	)	
Garnishee.	)	
_____	)	

I, \_\_\_\_\_, being first duly sworn, hereby state the following:

1. I am the \_\_\_\_\_ (Official Title) of the Garnishee  
named in the above caption. I am authorized to prepare this Answer on behalf of the  
Garnishee.

2. The Garnishee was served with the Writ of Continuing Garnishment on  
\_\_\_\_\_ (date) in this action.

3. The Garnishee currently has custody, control, or possession of earnings of  
the Defendant. Yes\_\_\_\_\_ No\_\_\_\_\_

1 4. The Garnishee expects to obtain custody, control, or possession of earnings  
2 of the Defendant in the foreseeable future. Yes\_\_\_\_ No\_\_\_\_

3 5. For the pay period in effect on the date of service of this Writ of Continuing  
4 Garnishment, the Garnishee states as follows:

5 a. Defendant was in my/our employ. Yes\_\_\_\_ No\_\_\_\_

6 b. The Defendant's pay period is \_\_\_\_ weekly, \_\_\_\_ bi-weekly,  
7 \_\_\_\_ semi-monthly, \_\_\_\_ monthly.

8 c. The Defendant's present pay period began on \_\_\_\_\_ (date).  
9 ("Present" means the pay period in which the Writ of Continuing  
Garnishment was served.)

10 d. The Defendant's present pay period ends on \_\_\_\_\_ (date).

11 e. The Defendant's net wages are as calculated below:

12 (1) Gross Pay \$ \_\_\_\_\_

13 (2) Federal income tax \$ \_\_\_\_\_

14 (3) F.I.C.A. tax \$ \_\_\_\_\_

15 (4) State income tax \$ \_\_\_\_\_

16 (5) SDI \$ \_\_\_\_\_

17 Total tax withholdings \$ \_\_\_\_\_

18 Net Wages \$ \_\_\_\_\_  
19 (gross pay minus above withheld taxes)

20 6. Are there any other garnishments currently in effect? Yes \_\_\_\_ No \_\_\_\_

21 If the answers is yes, describe below and attach to this Answer a copy of each  
22 garnishment:  
23

24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_

27 7. Will the Garnishee owe the Defendant money in the foreseeable future?

28 Yes \_\_\_\_ No \_\_\_\_ If the answer is yes, provide the reason why such money will be

1 owed, the amount of money that will be owed, and the date or dates on which each  
2 payment will be due:

3	Type of		
4	<u>Payment</u>	<u>Amount</u>	<u>Date Payment</u> <u>Will be Due</u>
5	1. _____	_____	_____
6	2. _____	_____	_____
7	3. _____	_____	_____

8 8. Does the Garnishee currently have custody, control or possession of property  
9 (other than earnings) such as bank accounts, pensions, thrift plans, etc., in which the  
10 Defendant maintains an interest? Yes\_\_\_\_ No\_\_\_\_ If the answer is yes, then  
11 provide the following information for each item of such property:

12	Description of	Approximate	Description of
13	<u>Property</u>	<u>Value</u>	<u>Defendant's Interest</u>
14	1. _____	_____	_____
15	2. _____	_____	_____
16	3. _____	_____	_____
17	4. _____	_____	_____

18 9. Does the Garnishee expect to obtain in the foreseeable future custody,  
19 control or possession of property (other than earnings) such as bank accounts,  
20 pensions, thrift plans, etc., in which the Defendant maintains an interest? Yes\_\_\_\_  
21 No\_\_\_\_ If the answer is yes, then provide the following information for each item of  
22 such property:

23	Description of	Approximate	Description of	Date Will
24	<u>Property</u>	<u>Value</u>	<u>Defendant's Interest</u>	<u>Obtain</u> <u>Property</u>
25	1. _____	_____	_____	_____
26	2. _____	_____	_____	_____
27	3. _____	_____	_____	_____
28	4. _____	_____	_____	_____



1           10. Does the Garnishee have any objections or defenses to the Writ of  
2 Continuing Garnishment? Yes\_\_\_\_ No\_\_\_\_ If the answer is yes, list the nature  
3 and basis of each objection and/or defense:

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_

9           On behalf of ALBERTSONS COMPANIES, INC., I hereby certify under penalty of  
10 perjury under the laws of the United States of America that the foregoing is true and  
11 correct.

12  
13 Telephone # \_\_\_\_\_

14  
15 Fax # \_\_\_\_\_

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18 Dated: \_\_\_\_\_ By: \_\_\_\_\_

19  
20 (Sign above and type or print name below)

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1 CERTIFICATE OF SERVICE

2 I, \_\_\_\_\_, declare:

3 That I am a citizen of the United States and employed in the County of

4 \_\_\_\_\_, Idaho; that my business address is

5 \_\_\_\_\_; that I am

6 over the age of eighteen years; and that I am not a party to the above-entitled action;

7 That on \_\_\_\_\_ (date), I deposited in the United States mail, in  
8 envelopes bearing the requisite postage, a copy of:

9 **ANSWER OF GARNISHEE**

10 addressed to each of the following, at their last known addresses, at which place there  
11 is service by United States mail.

12 RODOLFO DIAZ aka RODOLFO DIAZ, JR.  
13 535 3rd Street  
14 Paso Robles, CA 93446

15 Michael Cosentino  
16 Counsel for the United States  
17 P.O. Box 129  
18 Alameda, CA 94501

19 I have caused, or will cause, the original of the ANSWER OF GARNISHEE to be  
20 filed in the United States District Court pursuant to the instruction for same in  
21 paragraph # 3 of the Writ.

22 This Certificate was executed on \_\_\_\_\_ (date),  
23 at \_\_\_\_\_ (city), \_\_\_\_\_ (state).

24 I certify under penalty of perjury that the foregoing is true and correct.

25 \_\_\_\_\_  
26 (sign above the line and type or print name below)  
27  
28